



ABN 74 384 429 219
PO Box 23432
DOCKLANDS
VIC 8012
m: +61 402 060 120
e: info@nexaadvisory.com.au
www.nexaadvisory.com.au

28 August 2020

Australian Competition and Consumer Commission
23 Marcus Clarke Street
Canberra ACT 2601

By email: ACCC-CDR@acc.gov.au

RE: Consumer Data Right Energy rules framework consultation

Nexa Advisory welcomes the opportunity to respond to the Australian Competition and Consumer Commission (**ACCC**) consultation paper on Energy Rules Framework for the Consumer Data Right (CDR).

Nexa Advisory is a full-service advisory firm supporting clients through their clean energy transition. We were established in 2018, with our twenty years' experience in energy policy development and a passion for the successful transformation of Australia's energy markets. The decentralisation of energy promises, for the first time, to enable a truly democratised ecosystem with people and communities at the centre. As trusted leaders and advisors, Nexa Advisory fully embraces this empowerment and works to ensure this is realised through the ethical, user-centred design of innovative new energy services. The two-sided nature of this new ecosystem will also provide critical value to energy system security and market efficiencies.

The electricity industry has historically had three supply chain components: generation (i.e. power stations), transmission and distribution (i.e. poles and wires) and retail supply (marketing, customer services and billing). The National Electricity Market (**NEM**) is undergoing a major transformation, moving away from the linear, traditional model (with clearly defined market participants at each step of the electricity value chain), to a more decentralised, bi-directional and customer-driven market. This transformation is being driven by a number of factors, including technological advancement in distributed energy resources (**DER**), regulatory and market framework developments, innovation in product and service offerings, and cost and price movements. As well as distributed generation, DER encompasses digital metering, battery storage, smart inverters, intelligent control of air conditioners, hot water and other household load, together with software-enabled aggregation platforms.

More importantly, customer preferences continue to evolve and are leading a transformation of the NEM and the retailer business models. The availability of DER and other technologies is enabling customers to exert greater control over their energy usage and demand improved services and a

wider range of products from energy service providers. Although energy remains an essential service, customers now have far greater choice as to how that service is delivered.

A decade ago, the choice for customers was simply ‘who’ sold them energy. Now the choice is who and ‘how’ – how they will be supported by online services and flexible payment options, how they will combine grid supplied and DER how they expect to be able to monitor and control usage, and increasingly how they will share energy and share in value streams available beyond the home (e.g. network and wholesale values). Importantly, the regulatory framework should reflect the shift to a system where customers are best placed to choose the products and services that meet their unique needs.

We therefore commend the ACCC with its overarching vision for CDR of placing consumers in control of their personal data and maintaining close alignment and interoperability across economic sectors. Through this, we will maximise the future opportunities open to all Australians to benefit from innovative new services built on data aggregation from multiple sectors.

GUIDING POLICY PRINCIPLES

Nexa Advisory is committed to helping to shape a sustainable energy future for Australia. We believe that energy policy reform should focus on enabling transformation, driving productivity and unlocking growth. These objectives will be best supported by the following four guiding policy principles:

1. **Driving customer centricity and choice:** public policy settings should enable customers to embed themselves within the broader energy ecosystem and act as participants in multifaceted energy communities such as virtual power plants, energy sharing programs & intelligent micro-grids and communities.
2. **Promoting competitive platforms and innovation:** Competition and innovation in technology and business models are the primary means for aligning the interests of energy service providers with those of the customers they serve.
3. **Right of access and control:** Consumers should be provided with easy access to their own energy consumption data and retain direct control over who is permitted to access their data and for how long.
4. **Fit-for-purpose standardisation and regulation:** Fit-for-purpose regulatory arrangements that ensure appropriate consumer protections, format standardisation and portability, without overly complex rules and obligations that stifle innovation.

ECONOMY-WIDE INTEROPERABILITY

From its inception the CDR has been a cross-economy initiative, enabling innovative companies to bring multi-sector services to market. This vision aligns with the unfolding energy transition, which also represents a whole-of-economy opportunity based on decarbonisation of energy supply and electrification of other carbon-intensive sectors, such as transport, industry and the built environment.

Given the high levels of interdependence across economic sectors in achieving Net Zero Emissions commitments and the critical importance of engaged consumers participating in bi-

directional markets. Nexa Advisory believes that it is critical that the CDR limits divergence of sector-specific rules. This will maximise the potential for integrated services delivering cross-sector value beyond that which any one sector's data can provide to consumers independently.

CONSUMER CHOICES AND INFORMED CONSENT

The Australian Energy Market Commission (AEMC) identified in 2018 that only 39 per cent of Australians trusted their energy company, and the confidence that people have is less than a lot of other sectors where they have to make similar choices, including insurance, mobile phone plans and banking.¹

Critical to success will be consumers who are willing to share their energy data with trusted third-party data aggregators, confident of fair-value exchange and a positive customer experience (CX) in return. Without this experience, we will inevitably find that consumers are less willing to share their data and authorising aggregators to automate and dynamically adjust the demand of their DER ecosystem.

For example, a critical interdependency the Wholesale Demand Response Mechanism rule change due to be implemented in October 2021. Although the WDRM is initially restricted to Commercial and Industrial customers, when opened up to households, access to associated data flows will be crucial for consumers to maximise the value they can derive from engagement. Such engagement is also critical to the success of Virtual Power Plant (VPP) programs, which are collectively managed portfolios of DER whose combined demand is dynamically adjusted to contribute services at the scale of a conventional power plant.

These changing market dynamics necessitate public policy reform to ensure fit-for-purpose consumer protection and robust participation in a competitive market. It is also important that the retail regulatory and market framework does not seek to impose rigid price-setting frameworks that have the unintended consequences of limiting the ability of both old and new market players to innovate their offerings in response to new technology developments and changing consumer preferences.

The consumer protection regulatory framework should also be reviewed to ensure it remains fit-for-purpose. It should recognise that consumers are not homogenous but rather have their own distinct and unique preferences. The framework should be flexible enough to accommodate innovation in product and service provision (including the business or delivery model), and not constrain informed customer choice and participation. Importantly, it should promote competitive neutrality and allow existing and emerging business models to compete on their merits, enabling consumers to choose products and services that suit their circumstances.

The regulatory framework should facilitate digital engagement and service providers in their efforts to expeditiously bring to market new products and services and through channels that consumers' value. It should promote competitive neutrality and allow existing and emerging business models to compete on their merits, enabling consumers to choose products and services that suit their circumstances. The price, product and service benefits that flow to customers from competitive markets are predicated on the ability of customers to participate effectively in those markets. Therefore, in an environment where customer heterogeneity is expanding, it is positive that the retail regulatory and market framework is allowing new entrants with novel business models to enter the market and offer newly designed services to customers. Thus, attention should be paid to policy reforms that remove barriers to participation, providing them with access to and control of their data.

In the interests of maintaining a level playing field, Nexa Advisory believes that a prolonged delay between CDR being implemented for large retailers and new entrants risks the latter being reluctant to engage sufficiently early in the regulatory consultations, due to the inevitable resource constraints faced by smaller organisations. The result of this could see incumbent views dominating the crucial design of the CDR rules, and potentially limiting innovative new products and services. We believe that everything possible should be considered with the phased approach to encourage the early engagement of smaller retailers and innovative new entrants and the widest possible availability of the CDR to consumers.

Nexa Advisory also recognises that “Write Access” will be key to many of these future service innovations and that is subject to further consideration by Treasury’s Inquiry into Future Directions for the CDR, which is due to report back to the Treasurer in September. It therefore is not being considered by this ACCC consultation. However, this should not be taken as a reason to focus only on the short-term horizon.

IN CONCLUSION

Balancing initial priorities with an over-the-horizon perspective is important to we develop a rules framework flexible enough to adapt over time and motivate rather than limit the future product and service innovation which will underpin the energy transition and decarbonisation of the Australian economy.

The ACCC plays a pivotal role in ensuring that the consumer remains the focus of the CDR as it extends into the energy sector. A user-centred approach will drive innovation and future services and ensures consumers and can realise the full potential of bi-directional energy markets.

We would welcome further discussions. If you have any questions regarding this submission, please contact me on [REDACTED] or Joe Delaney on [REDACTED]

Yours Sincerely,



Stephanie Bashir
Principal Nexa Advisory